

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

30161

**FILE:**

B-212859.2

**DATE:** December 21, 1984

**MATTER OF:**

Joint Committee on Printing of the  
Congress of the United States - Request  
for Advance Decision

**DIGEST:**

1. In the absence of a specific statute or regulation mandating the establishment of geographic regions, an agency generally must show that its minimum needs define the scope of a geographic restriction in a contract.
2. GAO has no objection to the Government Printing Office's continued use of geographic restrictions in two Washington, D.C. area contracts for an additional 6 months, since the sole purpose is to gather data and to compare the results with unrestricted procurements. If the results do not provide a justification for limiting contracts to particular geographic regions, the restrictions should be removed entirely.

The Joint Committee on Printing (JCP) of the Congress of the United States requests our advance decision on whether the Government Printing Office's (GPO) restriction of its printing contracts to contractors within certain geographic regions is consistent with controlling laws, regulations and policies. The Committee also asks whether the GPO may maintain geographic restrictions in two of four Washington, D.C. area contracts for the purpose of gathering data necessary for a reevaluation of its policy on regional restrictions in the procurement of commercial printing for the federal government by the GPO.

Although as a general rule geographic restrictions that are based on regional boundaries, rather than on mileage or time, unduly restrict competition, we have no objection to GPO's continuing their use in certain Washington, D.C. area contracts for the next 6 months, so that the JCP may determine whether an exception is justified here.

**Background**

In 1971 the GPO, under the direction of the JCP, established a nationwide program intended to coordinate and ensure the competitive procurement of the government's

030453

printing needs from the private commercial sector. The JCP directed the GPO to establish regional printing procurement offices in 10 geographic areas in order to procure quality printing services in a timely and cost-effective manner. The JCP based its authority to develop the regional program on 44 U.S.C. § 103 (1982), which authorizes it to "use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing and binding and the distribution of government publications," and on 44 U.S.C. § 502, which authorizes the Public Printer to commercially procure printing "under contracts made by him with the approval of the Joint Committee on Printing."

The JCP maintains that the regional program, including its geographic restriction, is necessary to meet the repetitive, short turn-around needs of federal agencies throughout the country and to ensure adequate pre-award surveys, timely deliveries, an equitable price, quality control, liaison with customer agencies and contractors, and protection of smaller regional printers. Furthermore, the JCP believes that its regional program has promoted more than adequate competition among bidding printers.

#### GAO Analysis:

The basic principle underlying federal procurement is that full and free competition is to be maximized to the fullest extent possible, thereby providing qualified sources an equal opportunity to compete for government contracts. However, a procuring agency may impose legitimate restrictions, including geographic limitations, on competition if, after careful consideration of all relevant factors, including type of services being procured, past experience, and market conditions, the restrictions are deemed necessary to meet the agency's actual minimum needs. Plattsburgh Laundry and Dry Cleaning Corp.; Nu Art Cleaners Laundry, 54 Comp. Gen. 29 (1974), 74-2 CPD ¶ 27; 53 Comp. Gen. 102 (1973). The validity of any such restriction depends not on whether it restricts competition per se, but whether it unduly restricts competition. Cf. Southwest Forms Management Services, 56 Comp. Gen. 953 (1977), 77-2 CPD ¶ 183 (involving prequalification of offerors for printing contracts). Thus, a geographic restriction would be unduly restrictive only if it did not reflect the actual needs of the agency in a particular situation. Norfolk Shipbuilding and Drydock Corp., 60 Comp. Gen. 192 (1981), 81-1 CPD ¶ 46.

In the absence of a specific statute or regulation mandating the establishment of geographic regions, an agency must show that its minimum needs define the scope of each particular geographic restriction. See Burton Myers Co., 57 Comp. Gen. 454 (1978), 78-1 CPD ¶ 354. Where the agency can demonstrate that its minimum needs can only be satisfied by having a contractor located in the vicinity of the contract performance, we have held that the agency must broadly design its geographic restriction so as to extend the scope of the competitive area. Burton K. Myers and Co., B-187960, Sept. 14, 1977, 77-2 CPD ¶ 187. In order to overcome the presumption against a geographic restriction the GPO therefore must show that its limitations actually serve to ensure the timely delivery of goods or the adequate performance of services, rather than merely to provide ease of administration. See Burton Myers Co., 57 Comp. Gen. at 456, 78-1 CPD ¶ 354 at 3; Descomp Inc., 53 Comp. Gen. 522 (1974), 74-1 CPD ¶ 44; CompuServe, B-188990, Sept. 9, 1977, 77-2 CPD ¶ 182.

In a 1971 opinion addressed to the Public Printer, our Office recommended that the GPO reexamine its needs and consider broadening competition by enlarging the area of performance beyond immediate field office regions, so long as there was a reasonable expectation that bidders located outside the area could maintain close liaison with GPO and meet other requirements of the particular procurement. 50 Comp. Gen. 769 (1971).

In its current request for an advance decision, the JCP justifies the use of regional restrictions by stating that the restrictions are necessary in order:

"to induce a broad base of private printers . . . to bid competitively on GPO contracts to supply repetitive, short turn-around, locally-required federal agency printing requirements . . . [and to] eliminate duplicative government printing procurement activities, to reduce agency dependence on in-house facilities, . . . to ensure service and timeliness to the customer agencies as well as a fair price to the government. . . ."

There is no question that the GPO can demand that printing contract deadlines be met, that quality control be maintained, that liaison between the GPO and the contractor be easily accomplished, or that the government receive fair


and reasonable prices. However, the means the GPO uses to achieve these ends should not arbitrarily exclude potential contractors who are able to meet the agency's requirements. Whatever geographical restrictions the GPO imposes on such contracts must be justified on the bases of service and timeliness that the JCP has articulated, since the use of arbitrary geographic boundaries is not defensible under federal procurement statutes and regulations that mandate full and free competition. See 10 U.S.C. § 2305 (1982); Federal Acquisition Regulation, § 14.103-1(b), 48 Fed. Reg. 42,101, 42,171 (1983), to be codified at 48 C.F.R. § 14.103-1(b); Federal Procurement Regulations, 41 C.F.R. § 1-2.102 (1984). For example, a printing firm that is located outside of Printing Region 3-I, which includes the District of Columbia, Northern Virginia, and Maryland, may--due to existing metropolitan traffic patterns and availability of interstate highways--be just as accessible as one that is located within the region.

We understand that the JCP has begun to reevaluate its policy with regard to regional restrictions on contracts for the procurement of commercial printing by the GPO. To that end, the JCP has completed the first part of a two-part test comparing non-geographically restricted with geographically restricted contracts in the Washington, D.C. area. The analysis of the contract data gathered in the non-restricted 6-month test included trends in GPO's operations, the impact of contract specifications, patterns of agency requirements, contractor acceptance/rejection factors, contractor performance trends, and statistically significant correlations between these factors. The JCP maintains that the completion of the second part of the analysis is necessary in order to obtain the comparative data required to formulate a procurement policy that is consistent with its minimum needs, of reasonable cost to the government, and fully and freely competitive.

In view of the fact that the sole purpose of retaining the geographic regional restriction in the two Washington, D.C. area contracts is to gather the complete data requested by the JCP for the development of a permanent policy for the procurement of commercial printing for the federal government by the GPO, we have no objection to the GPO's proceeding with the second 6-month test. If the results do not

B-212859.2

provide a justification for the restriction that is consistent with the general rules regarding geographic restrictions outlined above, we believe the restriction should be removed entirely.

*for*   
Comptroller General  
of the United States